

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
FAYETTEVILLE DIVISION**

**IN RE:**

**BOBBY RAYNOR MCDANIEL**

Soc. Sec. No. xxx-xx-6002

Mailing Address: 1601 West Main Street, Clinton, NC 28328-

**CHAPTER 13**

**CASE NO. 12-08102-8-DMW**

**DEBTOR**

**MOTION TO MODIFY CHAPTER 13 PLAN**

**NOW COMES the Debtor**, by and through counsel undersigned, and moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case. In support hereof, the Debtor shows the following:

1. This case was filed on November 13, 2012, with the Chapter 13 plan being subsequently confirmed on February 19, 2013.
2. The Debtor proposes to modify the Chapter 13 plan in this case as follows:

From:

\$1,178.00 per month for a period of 15 months, followed by  
\$894.00 per month for a period of 42 months.

To:

\$913.00 per month for a period of 33 months, followed by  
\$610.00 per month for a period of 24 months.

3. To facilitate the proposed modification, the Debtor hereby surrenders any interest he may have in collateral securing the following claims and request that the Trustee cease Chapter 13 disbursements to the following claims:

Creditor and Claim No.	Description and Status of Collateral
Regional Acceptance Corporation (Chapter 13 claim no.26)	2006 Nissan Xterra (In Debtors' possession.)

4. The changed circumstances that justify or necessitate the proposed modification are as follows: The Debtors have experienced a temporary substantial decrease in monthly income due to the male Debtor being out of work for 5 months as a result of back surgery he received in March, 2015. The Debtors can no longer afford the required costs to maintain and repair their vehicle. The proposed modification seeks to relieve as much disposable income as necessary to compensate for this temporary decrease in income and increase in monthly expenses.
5. The proposed modification conforms to the modification standards for a Chapter 13 plan set forth in Sections 1322(a), 1322(b), 1323(c) and 1325(a) of the Code.

6. The proposed modification changes the Chapter 13 plan in this case to a base amount of \$44,769.00, and may reduce the dividend to be paid to unsecured creditors who have filed claims .
7. To facilitate the proposed modification, the Debtor requests authorization for the Trustee to pay the claims of residual secured creditors over the full life of the Chapter 13 plan.

**Appended Application for a Non-base Attorney Fee**

8. Attorney for the Debtor further applies herein, and in accordance with E.D.N.C. LBR 2016-1(a)(2) and (a)(6), for approval of an attorney fee for the services rendered regarding this Motion to Modify. The presumptive attorney fee of \$450.00 for a Motion to Modify has already been calculated into the proposed modified plan.

**WHEREFORE**, the Debtor prays that this Court grant his Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$450.00 to pay for the services rendered regarding this Motion to Modify, to be paid by the Trustee as an administrative expense out of funds available in the Chapter 13 plan.

Dated: September 8, 2015

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

s/ John T. Orcutt

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John T. Orcutt  
Attorney for the Debtor  
N.C. State Bar No. 10212  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
Telephone: (919) 847-9750  
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**IN RE:**

**BOBBY RAYNOR MCDANIEL**

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Mailing Address: 1601 West Main Street, Clinton, NC 28328-

**CHAPTER 13**

**CASE NO. 12-08102-8-DMW**

**DEBTOR**

**NOTICE OF MOTION**

The Debtor has filed papers with the court to modify the Chapter 13 plan in this case in accordance with 11 U.S.C. § 1329, together with an application by the Debtor's counsel for approval of an additional attorney fee in accordance with E.D.N.C. LBR 2016-1.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in this motion, or if you want the court to consider your views on the motion, then on or before October 2, 2015, you or your attorney must file with the court, pursuant to E.D.N.C. LBR 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing at: Clerk, U.S. Bankruptcy Court, P.O. Box 791, Raleigh, N.C. 27602.

If you mail your response to the court for filing, you must mail it early enough so that court will **receive** it on or before the date stated above. **You must also mail a copy to the following:**

John T. Orcutt Attorney 6616-203 Six Forks Rd. Raleigh, N.C. 27615	Joseph A. Bledsoe, III CHAPTER 13 TRUSTEE Post Office Box 1618 New Bern, NC 28563
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If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the motion at a date, time and place to be later set and all parties will be notified accordingly. If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in this motion and may enter an order granting that relief.

Dated: September 8, 2015

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

s/ John T. Orcutt

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John T. Orcutt  
Attorney for the Debtor  
N.C. State Bar No. 10212  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
Telephone: (919) 847-9750  
Fax: (919) 847-3439  
Email: postlegal@johnorcutt.com

**CERTIFICATE OF SERVICE**

I, Gabrielle Morrison, of the Law Offices of John T. Orcutt, P.C., do hereby certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age; and that on September 8, 2015, I served copies of the foregoing Motion and Notice of Motion, upon the following parties, by automatic electronic noticing:

Joseph A. Bledsoe, III  
Chapter 13 Trustee

and upon the following parties, either by automatic electronic noticing or regular first-class mail:

BOBBY RAYNOR MCDANIEL  
1601 West Main Street  
Clinton, NC 28328-

Regional Acceptance Corporation  
Attn: Managing Agent  
Bankruptcy Section / 100-50-01-51  
Post Office Box 1847  
Wilson, NC 27894-1847

All creditors named on the attached mailing matrix.

s/ Gabrielle Morrison  
\_\_\_\_\_  
Gabrielle Morrison

Employment Security Commission  
Attn: Benefit Payment Control  
Post Office Box 26504  
Raleigh, NC 27611-6504

Belk  
c/o GE Capital Retail Bank  
Post Office Box 103104  
Roswell, GA 30076

IC Systems  
Post Office Box 64887  
Saint Paul, MN 55164-0887

NC Child Support  
Centralized Collections  
Post Office Box 900006  
Raleigh, NC 27675-9006

Belk/GE Capital Retail Bank  
c/o Portfolio Recovery Associates  
Post Office Box 12903  
Norfolk, VA 23541

IC Systems  
Post Office Box 64137  
Saint Paul, MN 55127-2557

Equifax Information Systems LLC  
P.O. Box 740241  
Atlanta, GA 30374-0241

Capital One  
Post Office Box 30285  
Salt Lake City, UT 84130-0285

IC Systems  
Post Office Box 64437  
Saint Paul, MN 55164-0437

Experian  
P.O. Box 2002  
Allen, TX 75013-2002

Capital One  
Post Office Box 71083  
Charlotte, NC 28272-1083

Law Offices of Daughtry, Woodard  
Lawrence & Starling  
401 College Street  
Clinton, NC 28328

Trans Union Corporation  
P.O. Box 2000  
Crum Lynne, PA 19022-2000

Clinton X-Ray Associates, P.A.  
Post Office Box 619  
Clinton, NC 28328-0619

Nationstar Mortgage  
Attn: Managing Agent  
350 Highland Drive  
Lewisville, TX 75067

Internal Revenue Service (ED)\*\*  
Post Office Box 7346  
Philadelphia, PA 19101-7346

Fay Otho and Sports Medicine  
1991 Fordham Drive, Ste 100  
Fayetteville, NC 28304-3650

Nationstar Mortgage  
Attn: Managing Agent  
Post Office Box 650783  
Dallas, TX 75265-0783

US Attorney's Office (ED)\*\*  
310 New Bern Avenue  
Suite 800, Federal Building  
Raleigh, NC 27601-1461

Fayetteville Ambulatory  
1781 Metromedical Drive  
Fayetteville, NC 28304

NC Department of Justice  
for NC Department of Revenue  
Post Office Box 629  
Raleigh, NC 27602-0629

North Carolina Dept. of Revenue\*\*  
Post Office Box 1168  
Raleigh, NC 27602-1168

Fayetteville Anesthesia, PA  
Post Office Box 63196  
Charlotte, NC 28263-3196

Online Collections  
202 W. Fire Tower Road  
Winterville, NC 27858

Admin Recovery, LLC  
9159 Main Street  
Clarence, NY 14031

IC Systems  
Post Office Box 64378  
Saint Paul, MN 55164-4378

Portfolio Recovery Associates  
Dept 922  
Post Office Box 4115  
Concord, CA 94524

Portfolio Recovery Associates  
120 Corporate Boulevard  
Norfolk, VA 23502

Sampson Regional Medical Center  
Post Office Box 890650  
Charlotte, NC 28289-0650

Verizon Wireless  
Post Office Box 660108  
Dallas, TX 75266-0108

Progress Energy of the Carolinas  
Post Office Box 1551  
Raleigh, NC 27602-1551

Snap On Credit  
1125 Tri State Parkway  
Gurnee, IL 60031

Verizon Wireless  
Post Office Box 105378  
Atlanta, GA 30348

RBC Bank  
Post Office Box 1220  
Rocky Mount, NC 27802

Spectrum Laboratory  
Post Office Box 35907  
Greensboro, NC 27425-5907

Wake Medical Center  
c/o Revenue Cycle Solutions  
421 Fayetteville Street, Ste 600  
Raleigh, NC 27601-1792

RBC Bank  
Post Office Box 1070  
Charlotte, NC 28201-1070

Spectrum Laboratory  
Post Office Box 751337  
Charlotte, NC 28275-1337

Reginal Acceptance Corporation  
Attn: Managing Agent  
Post Office Box 580075  
Charlotte, NC 28258-0075

Spectrum Laboratory  
Post Office Box 580286  
Charlotte, NC 28258-0286

Regional Acceptance Corporation  
Attn: Managing Agent  
Post Office Box 830913  
Birmingham, AL 35283

Stern and Associates. PA  
415 North Edgeworth Street  
Suite #210  
Greensboro, NC 27401

Sampson County Tax Collector  
Post Office Box 207  
Clinton, NC 28329-0207

Stern and Associates. PA  
Post Office Box 63114  
Charlotte, NC 28263-3114

Sampson County Tax Collector  
Post Office Box 580014  
Charlotte, NC 28258-0014

The Honorable Eric Holder  
U.S. Department of Justice  
950 Pennsylvania Ave. NW  
Washington, DC 20530-0001

Sampson Regional Medical Center  
607 Beaman Street  
Clinton, NC 28328-2603

Verizon Wireless  
Post Office Box 26055  
Minneapolis, MN 55426